

Message Text

PAGE 01 STATE 095085

64

ORIGIN SMI-01

INFO OCT-01 EUR-12 ISO-00 OES-05 ABF-01 AGR-10 CIAE-00

COME-00 DODE-00 DOTE-00 EB-07 EPA-04 FSE-00 HEW-06

HUD-02 INR-07 INT-05 LOC-01 NASA-02 NSAE-00 NSF-02

OMB-01 TRSE-00 /067 R

DRAFTED BY SMI/OGC:JWILSON:MLK

APPROVED BY OES/SCI/BMP:MSBEAUBIEN

SMI/OIP:WDCOERR

SMI/OGC:GROBINSON

SMI/OIP:RCONROY

OES/SCI/SEP:JGSAMPAS

EUR/EE:RCHRISTENSEN(INFO)

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O 242141Z APR 75

FM SECSTATE WASHDC

TO AMEMBASSY BELGRADE IMMEDIATE

UNCLAS STATE 095085

E.O. 11652: N/A

TAGS: OSCI, YO

SUBJECT: SFCP/SMITHSONIAN - SALE OF R/V PHYKOS

REFERENCE: BELGRADE A) 1854; B) 1987

1. SMITHSONIAN HAS RECEIVED COPY OF UCOVIC CONTRACT.
2. SMITHSONIAN PREFERS USE OF U.S. DRAFT CONTRACT, AND HAS NO OBJECTIONS TO NON-SUBSTANTIVE ADDITIONS TO PREAMBLE BASED UPON UCOVIC DRAFT WHICH ARE NOT INCONSISTENT WITH REST OF CONTRACT.
3. SMITHSONIAN WILL ACCEPT ADDITION PER REFTEL A PARA 3(A)
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PAGE 02 STATE 095085

AND 3(B) IF MODIFIED TO READ AS FOLLOWS, QUOTE THE SELLERS
GUARANTEE THAT THE VESSEL, AT THE TIME OF DELIVERY, IS FREE
FROM ALL ENCUMBRANCES AND MARITIME LIENS OR ANY OTHER DEBTS
(EXCEPT UNKNOWN FUTURE TAXES OR CHARGES INCIDENTAL TO THE

SALE OF THE VESSEL AND EXCEPT THOSE AS OTHERWISE RECOGNIZED AND PROVIDED FOR HEREIN). HOWEVER IF ANY SUCH CLAIMS UNRELATED TO THE SALE OF THE VESSEL ACCRUE WITHIN TWO YEARS PRIOR TO THE TIME OF DELIVERY TO PURCHASER, SELLER AGREES TO INDEMNIFY AND HOLD THE PURCHASER HARMLESS FROM SUCH CLAIMS. UNQUOTE.

4. SMITHSONIAN BELIEVES THAT PARA 6 OF ITS DRAFT REFLECTS A SUBSTANTIAL PART OF SMITHSONIAN'S BASIC REQUIREMENT FOR SELLING THE PHYKOS. SMITHSONIAN THEREFORE NOT WILLING TO DELETE PARA 6. FURTHER PARA 6 IS NOT IN CONFLICT WITH PFEUFFER'S SUGGESTED PROVISION REGARDING PARA 3(B) NOR OUR REDRAFT OF THAT PROVISION AS PARA 3(A). AFTER SALE OF PHYKOS CONSUMATED SMITHSONIAN WILL HOLD PFEUFFER HARMLESS FROM LEGITIMATE DEBTS UNRELATED TO THE SERVICES PROVIDED OR ARRANGED FOR BY INKOBROD, AND WHICH WERE INCURRED DURING THE TWO YEAR PERIOD PRIOR TO TRANSFER TO PFEUFFER. IT IS IMPOSSIBLE FOR SMITHSONIAN OR U.S. GOVERNMENT TO HOLD PFEUFFER HARMLESS FROM ALL QUOTE CONSEQUENCES UNQUOTE OF SUCH CLAIMS, BUT WILL UNDERTAKE LEGAL DEFENSE AGAINST SUCH CLAIMS AND HOLD PFEUFFER HARMLESS FROM ANY ADVERSE JUDGMENTS. ALL THIS DOES IS TELL PFEUFFER THAT HE MUST PAY ALL DEBTS AND CHARGES RELATING TO INKOBROD AND THE SALE OF THE VESSEL. IF, FOR EXAMPLE, AFTER SALE INKOBROD NOTIFIES US THAT IT OVERLOOKED CERTAIN ADDITIONAL CHARGES, THE ONUS IS ON PFEUFFER (WHO NEGOTIATED FINAL CHARGES) TO PAY ANY LEGAL, REPEAT LEGAL, AND JUDICIALLY RECOGNIZED CHARGES. SMITHSONIAN WILL, OF COURSE, ASSIST IN RESOLUTION OF SUCH CLAIMS BUT WILL NOT HOLD PFEUFFER HARMLESS FROM THESE CHARGES WHICH WE AGREED PFEUFFER WOULD PAY IN ORDER TO OBTAIN THE PHYKOS. WE BELIEVE SUCH FUTURE CLAIMS ARE EXTREMELY REMOTE AND PFEUFFER SHOULD NOT BE CONCERNED.

5. SMITHSONIAN WILL CALL MILLS ON FRIDAY OR MONDAY TO ANSWER ANY QUESTIONS HE MAY HAVE RELATIVE TO THIS LANGUAGE AND SO THAT MILLS MAY BRING US UP TO DATE ON THE STATUS OF THIS SALE.
UNCLASSIFIED

PAGE 03 STATE 095085

6. SMITHSONIAN IS SENDING BY POUCH THE ORIGINAL AND FIVE (5) CERTIFIED COPIES OF MARITIME APPROVAL OF THE SALE. SMITHSONIAN HAS 90 DAYS WITHIN WHICH TO NOTIFY MARITIME OF CONSUMMATION.

7. FOR MILLS INFORMATION: INKOBROD MUST PROVIDE STATEMENT PRIOR TO SIGNING OF CONTRACT BETWEEN SMITHSONIAN AND PFEUFFER THAT (A) INKOBROD HAS NO KNOWLEDGE OF ANY CLAIMS REGISTERED OR UNREGISTERED INVOLVING THE PHYKOS AND (B) RELEASING SMITHSONIAN FROM ALL CLAIMS OF INKOBROD AND ANY OTHERS RELATING TO DOCKAGE, MAINTENANCE, INSURANCE, ETC., OF THE PHYKOS UPON TENDERING OF FUNDS FOR FINAL CHARGES. BE GUIDED BY THE FACT THAT THE MOST IMPORTANT ASPECT OF

THIS IS TO OBTAIN A SIGNATURE ON THE CONTRACT. KISSINGER

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<< END OF DOCUMENT >>

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